

ESTTA Tracking number: **ESTTA688345**Filing date: **08/07/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Cliche Mode Inc.		
Entity	Corporation	Citizenship	New York
Address	214 W. 39th Street Suite 807 New York, NY 10018 UNITED STATES		

Attorney information	Paul W. Reidl Law Office of Paul W. Reidl Second Floor 241 Eagle Trace Drive Half Moon Bay, CA 94019 UNITED STATES paul@reidllaw.com Phone:(650) 560-8530
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Registration Subject to Cancellation

Registration No	4453840	Registration date	12/24/2013
Registrant	Oracle Gifts Limited Floor 23, Wing Shing Industrial Building Kowloon, HONG KONG		

Goods/Services Subject to Cancellation

Class 018. First Use: 2010/02/00 First Use In Commerce: 2011/03/00


All goods and services in the class are cancelled, namely: All-purpose carrying bags; All-purpose leather straps; All-purpose reusable carrying bags; Attache cases; Attache cases made of leather; Attache cases made of imitation leather; Baby backpacks; Baby carrier covers specially adapted for baby carriers worn on the body; Baby carriers worn on the body; Baby carrying bags; Back frames for carrying children; Backpacks; Backpack straps; Backpacks; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Baggage tags; Bags for carrying babies' accessories; Bags for umbrellas; Beach bags; Business cardcases; Business card holders in the nature of card cases; Business cases; Card wallets; Carriers for suits, shirts and dresses; Carrying cases; Carrying cases for documents; Carry-all bags; Carry-on bags; Cases for keys; Cases of imitation leather; Credit card cases; Credit cardcases and holders; Credit card holders; Fashion handbags; Garment bags for travel; Handbags; Handbags for ladies; Handbags for men; Handbags, purses and wallets; Imitation leather key chains; Imitation leather sold in bulk; Interchangeable decorative covers for accessorization purposes that are specially adapted to handbags; Jewelry pouches; Key bags; Key cases; Key cases; Key cases of leather or imitation leather; Key wallets; Keycases; Key-cases; Key-cases of leather and skins; Kit bags; Knitted bags, not of precious metals; Knitting pouches, namely, functional sacks for holding and carrying yarn while knitting; Luggage label holders; Luggage tags; Make-up bags sold empty; Men's clutch bags; Mesh shopping bags; Messenger bags; Multi-purpose purses; Name card cases; Overnight bags; Overnight cases; Overnight suitcases; Plastic luggage labels; Pochettes; Pocket wallets; Pouches for holding keys; Pouches for holding make-up, keys and other personal items; Pouches made from imitation leather; Pouches made out of cloth; Pouches of leather; Pouches of textile; Purses; Purses and wallets; Purses not made of precious metal; Purses, not of precious metal; Roll bags; Saddle covers; Saddlehorn bags; Saddlebags; Saddlery; Saddlery, namely,

horn bags; Saddles; Satchels; School bags; School book bags; School knapsacks; School satchels; Schoolbags; Shoe bags for travel; Shoulder bags; Shoulder straps; Small backpacks; Small bags for men; Small clutch purses; Small purses; Small suitcases; Souvenir bags; Straps for handbags; Straps for luggage; Suit bags; Suit carriers; Suitcases; Totebags; Train cases; Travel baggage; Travel bags; Travel cases; Traveling bags; Travelling trunks; Trunks; Trunks and suitcases; Umbrella bases; Umbrella covers; Waist bags; Waist packs; Wallet chains; Wallets; Wallets; Wallets and wallet inserts; Wallets including card holders; Wallets made of leather or other materials; Wallets with card compartments; Wallets, not of precious metal; Wrist mounted carryall bags; Wrist mounted purses; Wrist or ankle mounted wallets; Wristlet bags; Clutch bags; Clutch purses; Clutches; Coin holders in the nature of wallets; Coin purses; Coin purses not made of precious metal; Coin purses, not of precious metals; Cosmetic bags sold empty; Cosmetic carrying cases sold empty; Cosmetic cases sold empty; Purses; Straps for carrying cases

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Cancellation and partial cancellation of the Class 18 goods because the goods were not being used in commerce as of the filing date and therefore that portion of the application is void ab initio.

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85972779	Application Date	06/28/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLICHE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/07/26 First Use In Commerce: 2011/07/26 Ladies sweaters, cardigans and knit tops		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Common law rights in Cliche.		
Goods/Services	Ladies sweaters, cardigans and knit tops.		

Attachments	85972779#TMSN.png(bytes)
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	cliche petition.pdf(98370 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/pwr/
Name	Paul W. Reidl
Date	08/07/2015

UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Registration no. 4,453,840

Trademarks: CLICHE

Goods: Handbags, clutches, etc. in Class 18.

CLICHÉ MODE, INC.,

Petitioner,

v.

ORACLE GIFTS, LTD.,

Respondent.

)
) Cancellation No.
)
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PETITION FOR CANCELLATION

Petitioner, Cliché Mode Inc., by and through its counsel, hereby petitions to cancel the Class 18 portion of registration no. 4,453,740. As grounds for its petition, Petitioner alleges as follows:

1. Petitioner is a New York company engaged in the business of selling, among other things, ladies sweaters, cardigans and knit tops.
2. Respondent, Oracle Gifts Ltd is a Hong Kong company allegedly engaged in the business of selling phone cases, jewelry and other items made in China.
3. Respondent owns Registration no. 4,453,840 for CLICHE for many different goods in Classes 9, 14 and 18. This petition concerns only the goods in Class 18 which include the following:
“All-purpose carrying bags; All-purpose leather straps; All-purpose reusable carrying bags; Attache cases; Attache cases made of leather; Attache cases made of imitation leather; Baby backpacks; Baby carrier covers specially adapted for baby carriers worn on the body; Baby carriers worn on the body; Baby carrying bags; Back frames for carrying children; Back packs; Backpack straps; Backpacks;

Backpacks, book bags, sports bags, bum bags, wallets and handbags; Baggage tags; Bags for carrying babies' accessories; Bags for umbrellas; Beach bags; Business card cases; Business card holders in the nature of card cases; Business cases; Card wallets; Carriers for suits, shirts and dresses; Carrying cases; Carrying cases for documents; Carry-all bags; Carry-on bags; Cases for keys; Cases of imitation leather; Credit card cases; Credit card cases and holders; Credit card holders; Fashion handbags; Garment bags for travel; Handbags; Handbags for ladies; Handbags for men; Handbags, purses and wallets; Imitation leather key chains; Imitation leather sold in bulk; Interchangeable decorative covers for accessorization purposes that are specially adapted to handbags; Jewelry pouches; Key bags; Key cases; Key cases; Key cases of leather or imitation leather; Key wallets; Keycases; Key-cases; Key-cases of leather and skins; Kit bags; Knitted bags, not of precious metals; Knitting pouches, namely, functional sacks for holding and carrying yarn while knitting; Luggage label holders; Luggage tags; Make-up bags sold empty; Men's clutch bags; Mesh shopping bags; Messenger bags; Multi-purpose purses; Name card cases; Overnight bags; Overnight cases; Overnight suitcases; Plastic luggage labels; Pochettes; Pocket wallets; Pouches for holding keys. Pouches for holding make-up, keys and other personal items; Pouches made from imitation leather; Pouches made out of cloth; Pouches of leather; Pouches of textile; Purses; Purses and wallets; Purses not made of precious metal; Purses, not of precious metal; Roll bags; Saddle covers; Saddle horn bags; Saddlebags; Saddlery; Saddlery, namely, horn bags; Saddles; Satchels; School bags; School book bags; School knapsacks; School satchels; Schoolbags; Shoe bags for travel; Shoulder bags; Shoulder straps; Small backpacks; Small bags for men; Small clutch purses; Small purses; Small suitcases; Souvenir bags; Straps for handbags; Straps for luggage; Suit bags; Suit carriers; Suitcases; Tote bags; Train cases; Travel baggage; Travel bags; Travel cases; Traveling bags; Travelling trunks; Trunks; Trunks and suitcases; Umbrella bases; Umbrella covers; Waist bags; Waist packs; Wallet chains; Wallets; Wallets; Wallets and wallet inserts; Wallets including card holders; Wallets made of

1 leather or other materials; Wallets with card compartments; Wallets, not of precious metal; Wrist
2 mounted carryall bags; Wrist mounted purses; Wrist or ankle mounted wallets; Wristlet bags; Clutch
3 bags; Clutch purses; Clutches; Coin holders in the nature of wallets; Coin purses; Coin purses not
4 made of precious metal; Coin purses, not of precious metals; Cosmetic bags sold empty; Cosmetic
5 carrying cases sold empty; Cosmetic cases sold empty; Purses; Straps for carrying cases.”

6 4. Petitioner owns application no. 85/972,779 for CLICHE for ‘ladies sweaters,
7 cardigans and knit tops.” This application has been refused by the Examining Attorney who believes
8 that there is a likelihood of confusion with Respondent’s “handbags and clutches” and similar goods
9 in Class 18.

10 5. Respondent’s application was filed on March 14, 2013 under Section 1 (a) of the
11 Lanham Act. On information and belief, at the time of the filing of the application, Respondent was
12 not using the mark in commerce on any or all of the goods specified under Class 18 of the
13 application. On information and belief, Respondent was not using the mark in commerce at the time
14 of the filing of the application on handbags, clutches and similar goods specified under Class 18 of
15 the application.

16 6. Because Respondent was not using the mark in commerce on the goods specified
17 under Class 18 of the application as of the filing date, this portion of the application was void ab
18 initio and should be cancelled.

19 7. To the extent that Respondent was not using the mark in commerce on handbags and
20 clutches and related goods as of the filing date, these goods should be stricken from the specification
21 of goods under Section 18 of the Lanham Act.

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8. Although Respondent has filing priority, Petitioner has use priority and if there is a likelihood of confusion concerning the handbags, clutches and similar goods in Class 18, the confusion is with Petitioner's goods and this portion of the registration should be cancelled.

9. The continued registration by Respondent of its registered marks for the goods in Class 18 and, specifically, for handbags, clutches and similar goods will cause injury and damage to Petitioner and is inconsistent with Petitioner's rights in its mark.

WHEREFORE, it is respectfully prayed that this petition be granted and that the Class 18 portion of mark which is the subject of Registration No. 4,453,840 be cancelled or limited under Section 18 as set forth above.

The filing fee of \$300 is being paid at the time of filing.

Respectfully submitted,

Dated: August 7, 2015

LAW OFFICE OF PAUL W. REIDL

Baruch Beisel

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Attorney for Petitioner, Cliché Mode, Inc.

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PETITION FOR CANCELLATION on Respondent and its domestic representative by placing a true copy thereof enclosed in an envelope, postage prepaid, addressed as follows:

JONATHAN P. SOIFER
POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.
12412 POWERS COURT DR STE 200
SAINT LOUIS, MISSOURI 63131-3615
UNITED STATES

Barney Reid